

# CLASS, COLLECTIVE AND PAGA ACTION SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class, Collective, and PAGA Action Settlement Agreement (“Agreement”) is made by and between plaintiffs James Cato and Richard Thorne (“Plaintiffs”) and defendants Huntington Ingalls Incorporated and HII Fleet Support Group, LLC (“Defendants”). The Agreement refers to Plaintiffs and Defendants collectively as “Parties,” or individually as “Party.”

## 1. DEFINITIONS.

- 1.1. “Action” means the Plaintiffs’ lawsuit alleging wage and hour violations against Defendants captioned *James Cato v. Huntington Ingalls Incorporated*, Case No. 21STCV00441, initiated on January 7, 2021 and pending in Superior Court of the State of California, County of Los Angeles, as amended, and the Second Amended Complaint, inclusive of PAGA claims (as set forth in the LWDA exhaustion letter dated June 25, 2021, Case No. LWDA-CM-836198-21) and adding Richard Thorne as a plaintiff and HII Fleet Support Group, LLC as defendant, as amended, to be filed by no later than concurrently with the motion for preliminary approval.
- 1.2. “Administrator” means Phoenix Class Action Administration Solutions the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means Plaintiffs and all current and former non-exempt employees of HII Fleet Support Group, LLC, employed in California at any time during the PAGA Period.
- 1.5. “Class” means Plaintiffs and all current and former non-exempt employees of HII Fleet Support Group, LLC, employed in California at any time during the Class Period.
- 1.6. “Class Counsel” means Justice Law Corporation, the attorneys representing Plaintiffs in the Action.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Defendants’ possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” or “Settlement Class Member” means Plaintiffs and a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

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- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS, COLLECTIVE, AND PAGA ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in the form, without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement.
- 1.12. “Class Period” means the period from January 7, 2017 through December 31, 2022.
- 1.13. “Class Representative” means the named Plaintiffs in the operative complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.14. “Class Representative Service Payment” means, in exchange for the execution of a stand-alone general release of all claims, the payments to each Class Representative for initiating the Action and providing services in support of the Action.
- 1.15. “Court” means the Superior Court of California, County of Los Angeles.
- 1.16. “Defendants” means named defendants Huntington Ingalls Incorporated and HII Fleet Support Group, LLC.
- 1.17. “Defense Counsel” means Jason W. Kearnaghan, Ryan J. Krueger, and Emily A. Papania of Sheppard, Mullin, Richter & Hampton LLP.
- 1.18. “Effective Date” the date on which the Final Award becomes final. For purposes of this Section, the Final Award “becomes final” only after the Court grants the Motion for Final Approval and upon service of the Notice of Entry of Order and/or Final Judgment, and upon the latter of: (i) if no appeal is filed, the expiration date of the time for the filing or noticing of any appeal from, or other challenge to, the Order Granting Final Approval and/or Final Judgment (this time period shall not be less than seventy (70) calendar days after the Court’s Order is entered); (ii) the date of affirmance of an appeal of the Order Granting Final Approval and/or Final Judgment becomes final under the California Rules of Court; or (iii) the date of final dismissal of any appeal from the Order Granting Final Approval and/or Final Judgment or the final dismissal of any proceeding on review of any court of appeal decision relating to the Order Granting Final Approval and/or Final Judgment.
- 1.19. “Employee Paid Taxes” means taxes paid by an individual employee, including Federal Insurance Contributions Act, federal income tax, state disability insurance, state income tax payments.
- 1.20. “Employer Paid Taxes” means paid by the employer, including Federal Unemployment Tax Act, Federal Insurance Contributions Act, state unemployment insurance, and Employee Training Tax payments.
- 1.21. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.22. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

- 1.23. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.24. “Gross Settlement Amount” means \$450,000, which is the total gross amount Defendants agree to pay under the Settlement. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payments the Administrator’s Expenses, all interest payments, and all Employee Paid Taxes.
- 1.25. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.26. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of twenty-five percent (25%) of the PAGA Penalties calculated according to the number of Pay Periods worked during the PAGA Period.
- 1.27. “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.28. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.29. “LWDA PAGA Payment” means the seventy-five percent (75%) of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.30. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.31. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.32. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendants for at least one day during the PAGA Period.
- 1.33. “PAGA Period” means the period from June 25, 2020 through December 31, 2022.
- 1.34. “PAGA” means the Private Attorneys General Act (Labor Code sections 2698, *et seq.*).
- 1.35. “PAGA Notice” means Plaintiff Richard Thorne’s June 25, 2021 letter to Defendants and the LWDA providing notice pursuant to Labor Code section 2699.3, subd. (a).
- 1.36. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated twenty-five percent (25%) to the Aggrieved Employees (\$12,500) and the seventy-five percent (75%) to LWDA (\$37,500) in settlement of PAGA claims.
- 1.37. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

- 1.38. “Pay Period” means the recurring two consecutive calendar weeks from Monday to Sunday over which Class Member and Aggrieved Employee’s time is recorded and paid by Defendants.
- 1.39. “Plaintiffs” means James Cato and Richard Thorne, the named plaintiffs in the Action.
- 1.40. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.41. “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.42. “Released Class Claims” means the Class claims being released as described in Paragraph 5.2 below.
- 1.43. “Released PAGA Claims” means the PAGA claims being released as described in Paragraph 5.3 below.
- 1.44. “Released Parties” means: Defendants and their past, present, and future parents, subsidiaries, affiliated companies (including but not limited to, Huntington Ingalls Industries, Inc., and all of its parents, subsidiaries and affiliates), agents, managing agents, employees, servants, officers, directors, owners (whether direct or indirect), general partners, limited partners, trustees, representatives, shareholders, stockholders, members, mortgagees or ground lessors, attorneys, parents, subsidiaries, equity sponsors, related companies/corporations and/or partnerships, divisions, assigns, predecessors, successors, insurers, consultants, joint venturers, joint employers, potential and/or alleged joint employers, temporary staffing agencies, dual employers, potential and/or alleged dual employers, co-employers, potential and/or alleged co-employers, common law employers, any person and/or entity with potential or alleged to have joint liability, and all of their respective past and present employees, directors, officers, members, owners, agents, representatives, payroll agencies, attorneys, stockholders, fiduciaries, parents, subsidiaries, other service providers, and assigns.
- 1.45. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.46. “Response Deadline” means sixty (60) calendar days after the Administrator mails Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are re-sent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) calendar days beyond the Response Deadline has expired.
- 1.47. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.48. “Workweek” means any week during which a Class Member worked for Defendants for at least one day, during the Class Period.

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## 2. RECITALS.

- 2.1. On January 7, 2021 Cato filed a complaint for damages against Defendant Huntington Ingalls Incorporated; on September 21, 2021 Cato filed a first amended complaint for damages against Defendant Huntington Ingalls Incorporated; on or about December 22, 2022 Plaintiffs filed a second amended complaint for damages against Defendants, alleging violation of Labor Code sections 510 and 1198 (unpaid overtime), violation of Labor Code sections 226.7 and 512(a) (unpaid meal period premiums), violation of Labor Code section 226.7 (unpaid rest period premiums), violation of Labor Code sections 1194 and 1197 (unpaid minimum wages), violation of Labor Code sections 201 and 202 (final wages not timely paid), violation of Labor Code section 226(a) (non-compliant wage statements), violations of Labor Code sections 2800 and 2802 (unreimbursed business expenses), violation of Business & Professions Code section 17200, et seq., violation of Fair Labor Standards Act (29 USC section 201, et seq.), and violation of Labor Code section 2698, et seq. (Private Attorneys General Act of 2004). Defendants deny the allegations in the Operative Complaint, as amended, deny any failure to comply with the laws identified in the Operative Complaint and deny any and all liability for the causes of action alleged.
- 2.2. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff Richard Thorne gave timely written notice to Defendants and the LWDA by sending the PAGA Notice.
- 2.3. On August 23, 2022 the Parties participated in an all-day mediation presided over by Jeffery Krivis, Esq. which led to this Agreement to settle the Action.
- 2.4. Prior to mediation and negotiating the Settlement, Plaintiffs obtained, through formal and informal discovery, documents relating to Defendants' wage-and-hour policies, practices, and procedures, including those regarding meal and rest periods, the recording of time, and off-the-clock work. Plaintiff also reviewed time and pay records and information relating to the size and scope of the Class, as well as data permitting Plaintiff to understand the number of workweeks in the Class Period and pay periods in the PAGA Period. Plaintiffs' investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4<sup>th</sup> 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4<sup>th</sup> 116, 129-130 (“*Dunk/Kullar*”).
- 2.5. The Court has not granted class certification.
- 2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

## 3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Defendants promise to pay \$450,000 and no more as the Gross Settlement Amount. Defendants will be responsible for any and all Employer Paid Taxes required by law on the wage portions of the Individual Class Payments to Class Members, separate and in addition to the Gross Settlement Amount. All Employee Paid Taxes will be paid from the Gross Settlement Amount. Defendants have no obligation to pay the Gross Settlement Amount (or any Employer Paid Taxes) prior to the deadline stated in Section 4 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit

any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants, subject to Section 8 below.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To Plaintiffs: In exchange for a general release and in recognition of their effort and work in prosecuting the Action on behalf of Class Members, Defendants agree not to oppose or impede any application or motion for a Class Representative Service Payment to the Class Representative(s) (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member): James Cato of not more than \$5,000; and Richard Thorne of not more than \$5,000. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, this shall not be grounds to nullify and/or challenge this Agreement, and the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiffs will be solely and legally responsible to pay any and all applicable taxes on the payment made pursuant to this Section and will indemnify and hold Defendants harmless from any claim or liability for taxes, penalties, or interest arising as a result of the payment. Receipt of any Class Representative Service Payment is expressly conditioned on the execution of a stand-alone individual settlement agreement which includes a general release of all claims.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than thirty-five percent (35%) of the Gross Settlement Amount, which is currently estimated to be \$157,500 and a Class Counsel Litigation Expenses Payment of not more than \$20,000. Defendants will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, this shall not be grounds to nullify and/or challenge this Agreement, and the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiffs' Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments.

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- 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$20,000 except for a showing of good cause and as approved by the Court. The Parties hereby acknowledge that the Administration Expense Payment may increase above the current estimate of \$20,000 and that any such additional Administration Expense Payment that are approved by the Court shall be taken out of the Gross Settlement Amount. To the extent the Administration Expenses are less or the Court approves payment less than \$20,000, the Administrator will retain the remainder in the Net Settlement Amount.
- 3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.
- 3.2.4.1. Tax Allocation of Individual Class Payments. One-third of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The remaining two-thirds of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any Employee Paid Taxes owed on their Individual Class Payment. The Individual Class Payments made to Participating Class Members under this Settlement, and any other payments made pursuant to this Settlement, will not be utilized to calculate any additional benefits under any benefit plans to which any Participating Class Members may be eligible, including, but not limited to, profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Participating Class Members may be entitled under any benefit plans.
- 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis. Non-Participating Class Members shall still receive an Individual PAGA Payment.
- 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$50,000 to be paid from the Gross Settlement Amount, with seventy-five percent (75%) of which (\$37,500) allocated to the LWDA PAGA Payment and twenty-five percent (25%) of which (\$12,500) allocated to the Individual PAGA Payments.

- 3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' twenty-five percent (25%) share of PAGA Penalties \$12,500 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.
- 3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

#### **4. SETTLEMENT FUNDING AND PAYMENTS.**

- 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records as of July 29, 2022, Defendants estimate there were approximately 71,052 Workweeks, and approximately 12,667 PAGA Pay Periods.
- 4.2. Class Data. Not later than fifteen (15) calendar days after the Court grants Preliminary Approval of the Settlement, Defendants will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendants has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendants must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 4.3. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross Settlement Amount, as well as an amount sufficient to pay the Employer Paid Taxes with respect to the Wage Portion of the Individual Class Payments by transmitting the funds to the Administrator no later than fifteen (15) calendar days after the Effective Date. Defendants have no obligation to deposit such funds prior to the deadline set forth herein.
- 4.4. Payments from the Gross Settlement Amount. Within fourteen (14) calendar days after Defendants funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment, and Employee Paid Taxes. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.
  - 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 calendar days after the date of mailing) when the check will be

voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment, with Employee Paid Taxes withheld and paid from the Gross Settlement Amount. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

- 4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within seven (7) calendar days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and canceled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).
- 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendants to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

## **5. RELEASES OF CLAIMS.**

Effective on the date when Defendants fully funds the entire Gross Settlement Amount and funds Employer Paid Taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

- 5.1. Plaintiffs' Release. Upon the Effective Date, and as a condition of receiving any portion of their Class Representative Service Payments, Plaintiffs and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns shall fully and finally release the Released Parties (which as defined above specifically includes Defendants) from any and all claims, known and unknown, under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law ("Plaintiff's Released Claims"). Plaintiffs' Released Claims shall be set forth more-fully in the stand-alone settlement agreement and general release of all claims. Plaintiffs' Released Claims include, but are not limited to, all claims arising from or related to the Action, as amended. Plaintiffs' Released Claims include all claims for unpaid wages, including, but not limited to, failure to pay minimum wages, straight time compensation,

overtime compensation, double-time compensation, and interest; the calculation of the regular rate of pay; wages related to alleged illegal time rounding; failure to pay wages at least twice each calendar month; failure to timely pay wages; failure to timely pay final wages; missed/short/late/interrupted meal period, rest period, and/or recovery period wages/premiums; failure to provide meal periods; failure to authorize and permit rest periods and/or recovery periods; the calculation of meal period, rest period, and/or recovery period premiums; reimbursement for all necessary business expenses, including work-related cell-phone expenses and car mileage for work-related travel; payment for all hours worked, including off-the-clock work; wage statements; deductions; failure to keep accurate records; failure to provide suitable seating; failure to maintain temperature providing reasonable comfort; unlawful deductions and/or withholdings from wages; unfair business practices; penalties, including, but not limited to, recordkeeping penalties, wage statement and payroll reporting penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees and costs. Plaintiffs' Released Claims include all claims arising under the California Labor Code (including, but not limited to, sections 200, 201, 201.1, 201.3, 201.5, 202, 203, 204, 204.1, 204.2, 206, 210, 216, 218, 218.5, 218.6, 221, 225.5, 226, 226.2, 226.3, 226.7, 226.8, 247.5, 248.5, 256, 450, 510, 511, 512, 515, 516, 558, 1174, 1174.5, 1175, 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1197.2, 1198, 1198.5, 2698 et seq., 2699 et seq., 2802, and 2804); all claims arising under: the Wage Orders of the California Industrial Welfare Commission; the California Private Attorneys General Act of 2004 (PAGA); California Business and Professions Code section 17200, et seq.; the California Civil Code, to include sections 3287, 3336 and 3294; 8 CCR sections 3203, 11070, 11090, 11100; California Code of Civil Procedure section 1021.5; all state and local ordinances related to COVID-19 right of recall; the California common law of contract; the FLSA, 29 U.S.C. section 201, et seq.; 29 CFR 778.223; 29 CFR 778.315; federal common law; and the Employee Retirement Income Security Act, 29 U.S.C. section 1001, et seq. (ERISA). Plaintiffs' Released Claims also include all claims for lost wages and benefits, emotional distress, retaliation, punitive damages, and attorneys' fees and costs arising under federal, state, or local laws for discrimination, harassment, retaliation, and wrongful termination, such as, by way of example only, (as amended) 42 U.S.C. section 1981, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), and the California Fair Employment and Housing Act (FEHA); and the law of contract and tort. This release excludes the release of claims not permitted by law.

5.1.1. Plaintiffs' Waiver of Rights Under California Civil Code Section 1542. Plaintiffs' Released Claims include all claims, whether known or unknown. Even if Plaintiffs discover facts in addition to or different from those that they now knows or believe to be true with respect to the subject matter of Plaintiffs' Released Claims, those claims will remain released and forever barred. Thus, for purposes of Plaintiffs' Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

**A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.**

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5.2. Release by Participating Class Members: Plaintiffs and all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties (which as defined above specifically includes Defendants) from (i) any and all claims, wage and hour claims, rights, demands, liabilities and causes of action of any nature or description alleged/asserted in the Action, as amended, arising from and/or related to the facts and claims alleged/asserted in the Action, as amended during the Class Period, that could have been alleged/asserted in the Action based on the facts and claims alleged in the Action, as amended during the Class Period, and the facts and claims asserted in, arising from or related to, or could have been alleged in the PAGA letter dated June 25, 2021, which was sent to the LWDA on behalf of Richard Thorne and other alleged Aggrieved Employees and identified on the LWDA's website as LWDA-CM-836198-21; (ii) any and all claims for unpaid wages, including, but not limited to, failure to pay minimum wages, straight time compensation, overtime compensation, double-time compensation, and interest; the calculation of the regular rate of pay; wages related to alleged unlawful time rounding; travel time pay; failure to pay wages at least twice each calendar month; failure to timely pay wages; missed/short/late/interrupted meal period, rest period, and/or recovery period wages/premiums; failure to provide meal periods; failure to authorize and permit rest periods and/or recovery periods; the calculation of meal, rest, and/or recovery period premiums; reimbursement for all necessary business expenses, including work-related cell-phone expenses and car mileage for work-related travel; payment for all hours worked, including off-the-clock work; failure to provide/furnish accurate itemized wage statements; deductions; failure to keep/maintain accurate records; failure to timely pay final wages; unlawful deductions and/or withholdings from wages; unfair business practices; penalties, including, but not limited to, recordkeeping penalties, wage statement and payroll reporting penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees and costs; for civil and statutory penalties, including wage statement and payroll reporting penalties, record keeping penalties, minimum wage penalties, attorneys' fees and costs; and unfair business practices related to the Released Class Claims. The Released Class Claims also include but are not limited to all such claims arising under: California Labor Code sections 201, 201.3, 202, 203, 204, 206, 210, 216, 218, 218.5, 218.6, 221, 222, 225.5, 226, 226.3, 226.7, 246, 247.5, 248.5, 510, 512, 516, 558, 1174, 1174.5, 1175, 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198, 1199, 2698 et seq., 2699 et seq., 2800, and 2802; all claims arising under the California Private Attorneys General Act of 2004 ("PAGA") related to the Released Claims and Released Aggrieved Employee Claims; all claims relating to the Released Class Claims under the California Business and Professions Code section 17200, et seq.; the Release shall also include all claims relating to the Released Claims under the applicable Wage Orders of the California Industrial Welfare Commission (including, but not limited to, IWC Wage Order Nos. 4-2001, 5-2001, 10-2001 and 8 CCR section 11100) for failure to provide accurate itemized wage statements, failure to keep accurate records, for civil and statutory penalties, including wage statement penalties, and record keeping penalties. The Released Claims include those under the Fair Labor and Standards Act ("FLSA"), including those related to recordkeeping obligations, 29 U.S.C. section 211(c); 29 C.F.R. sections 516, 778.223, 778.315, et seq.; and all state and federal law equivalents arising from or related to the facts and claims alleged in the Action and/or LWDA letter or that could have been alleged in the Action and/or LWDA letter; California Civil Code sections 3287, 3288, 3289; California Code of Civil Procedure section 1021.5; and the California common law of contract. This release excludes the release of claims not permitted by law, including but not limited to claims brought for workers' compensation benefits, and alleged violations occurring outside the Class Period.

Plaintiffs and Class Members who timely cash or otherwise negotiate their Settlement Payment Check will be deemed to have opted into the Action, as amended, for purposes of the FLSA and, as to those Class Members, the Released Class Claims include any and all claims the Class Members may have under the FLSA asserted in the Action as amended, arising from or related to the facts and claims alleged in the Action as amended, or that could have been alleged in the Action based on the facts and claims alleged in the Action as amended, during the Class Period. Only those Class Members who timely cash or otherwise negotiate their Settlement Payment Check will be deemed to have opted into the Actions for purposes of the FLSA and thereby release and waive any of their claims under the FLSA arising under or relating to the alleged claims.

The following language will be printed on the reverse of each Individual Class Payment Check, or words to this effect: “By endorsing or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor Standards Act (“FLSA”) portion of the [Actions], elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the Settlement.”

Upon entry of Judgment, Class Members are precluded from filing a wage and hour action under the Fair Labor Standards Act against the Released Parties for claims and/or causes of action encompassed by the Released Claims which are extinguished and precluded pursuant to the holding in *Rangel v. PLS Check Cashers of California, Inc.*, 899 F.3d 1106 (2018). This release excludes the release of claims not permitted by law

- 5.3. Release by Aggrieved Employees: Plaintiffs and all Aggrieved Employees, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, and the LWDA, shall release the Released Parties from all claims, rights, demands, liabilities, and causes of action for PAGA civil penalties asserted in the Action (as amended) and/or arising from, or reasonably related to the facts and claims alleged in the Complaint, the First Amended Complaint, the Second Amended Complaint, and/or June 25, 2021 LWDA exhaustion letter identified on the LWDA’s website as LWDA-CM-836198-21. Such claims, rights, demands, liabilities, and causes of action include those arising out of the following: California Minimum Wage Order (MW-2014), Labor Code sections 201, 202, 203, 204, 218.5, 221, 226, 226.3, 226.7, 510, 1194, 1197, 1198, 2698 *et seq.* Further, such claims, rights, demands, liabilities, and causes of action include those for PAGA civil penalties for unpaid wages, including, but not limited to, failure to pay minimum wages, straight time compensation, overtime compensation, double-time compensation, and interest; the calculation of the regular rate of pay; wages related to alleged unlawful time rounding; travel time pay; failure to pay wages at least twice each calendar month; failure to timely pay wages; missed/short/late/interrupted meal period, rest period, and/or recovery period wages/premiums; failure to provide meal periods; failure to authorize and permit rest periods and/or recovery periods; the calculation of meal, rest, and/or recovery period premiums; reimbursement for all necessary business expenses, including work-related cell-phone expenses and car mileage for work-related travel; payment for all hours worked, including off-the-clock work; failure to provide/furnish accurate itemized wage statements; deductions; failure to keep/maintain accurate records; failure to timely pay final wages; and unlawful deductions and/or withholdings from wages; unfair business practices.

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**6. MOTION FOR PRELIMINARY APPROVAL.**

The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary Approvals.

- 6.1. Plaintiffs’ Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vii) and all facts relevant to any actual or potential conflict of interest with Class Members and the Administrator. In their declarations, Plaintiffs and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
  
- 6.2. Responsibilities of Counsel. Class Counsel is responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than thirty (30) calendar days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the Administrator.
  
- 6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court’s concerns.

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## **7. SETTLEMENT ADMINISTRATION.**

- 7.1. Selection of Administrator. The Parties have jointly selected Phoenix Class Action Administration Solutions to serve as the Administrator and verified that, as a condition of appointment, Phoenix Class Action Administration Solutions agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating and remitting Employee Paid Taxes to state and federal tax authorities.
- 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.
- 7.4. Notice to Class Members.
- 7.4.1. No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- 7.4.2. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database. Using best efforts to perform as soon as possible, and in no event later than fourteen (14) calendar days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts.
- 7.4.3. Not later than three (3) business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- 7.4.4. The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) calendar days beyond the sixty (60) calendar days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

7.4.5. If the Administrator, Defendants or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than fourteen (14) calendar days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

#### 7.5. Requests for Exclusion (Opt-Outs).

- 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion, attached hereto as Exhibit C, not later than sixty (60) calendar days after the Administrator mails the Class Notice (plus an additional 14 calendar days for Class Members whose Class Notice is re-mailed). To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- 7.5.3. Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Section 5.2 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Section 5.3 of this Agreement and are eligible for an Individual PAGA Payment.
- 7.6. Challenges to Calculation of Workweeks or Pay Periods. Each Class Member shall have sixty (60) calendar days after the Administrator mails the Class Notice (plus an additional 14 calendar days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member

in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email, or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination of the challenges.

7.7. Objections to Settlement.

7.7.1. Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

7.7.2. Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than sixty (60) calendar days after the Administrator's mailing of the Class Notice (plus an additional 14 calendar days for Class Members whose Class Notice was re-mailed).

7.7.3. Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

7.8.1. Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes, and emails.

7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than five (5) calendar days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

- 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.8.5. Administrator’s Declaration. Not later than fourteen (14) calendar days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- 7.8.6. Final Report by Settlement Administrator. Within ten (10) calendar days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least fifteen (15) calendar days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

## **8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE.**

Based on a review of its records as of July 29, 2022, Defendants estimate there were approximately 71,052 Workweeks, and approximately 12,667 PAGA Pay Periods. If the actual number of employee Workweeks encompassed within the Class Period as of July 29, 2022 exceeds 71,052 by more than seven (7%), then, Plaintiffs have the option to nullify this Agreement. Plaintiffs shall provide ten (10) business days’ notice of such intent to nullify prior to taking any action with the court. During this 10-day nullification notice period, Defendants at their exclusive discretion may agree to increase the Gross Settlement Amount proportionately for any excess increase in the total number of Workweeks worked by the Class. For example, if the total number of Workweeks worked by the Class increases by eight percent (8%), the Gross Settlement Amount will increase by one percent (1%) (actual increase minus the 7% tolerated increase). In the

alternative, Defendants shall have the exclusive option to modify the applicable Class Period to a date prior to Preliminary Approval to avoid incurring the pro rata increase.

**9. DEFENDANTS' RIGHT TO WITHDRAW.**

If the number of valid Requests for Exclusion identified in the Exclusion List exceeds five percent (5%) of the total of all Class Members, Defendants may, but are not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendants withdraw, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, Defendants will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendants must notify Class Counsel and the Court of its election to withdraw not later than seven (7) calendar days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

**10. MOTION FOR FINAL APPROVAL.**

Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than seven (7) calendar days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

- 10.1. Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
- 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.
- 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of

appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

- 10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

## **11. AMENDED JUDGMENT.**

If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit a proposed amended judgment.

## **12. ADDITIONAL PROVISIONS.**

- 12.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative Complaint have merit or that Defendants has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendants' defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendants reserves the right to contest certification of any class for any reasons, and Defendants reserves all available defenses to the claims in the Action, and Plaintiffs reserve the right to move for class certification on any grounds available and to contest Defendants' defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).
- 12.2. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendants, and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Defendants, and Defense Counsel

separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that “the matter was resolved,” or words to that effect. This paragraph does not restrict Class Counsel’s communications with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members. Plaintiffs and Class Counsel further agree not to use the logos or trademarks of Released Parties for advertising purposes.

- 12.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel’s ability to communicate with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.
- 12.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 12.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 12.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance Jeffrey Krivis, Esq. (mediator) for resolution.
- 12.7. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 12.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendants nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 12.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 12.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

- 12.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 12.13. Use and Return of Class Data. Information provided to Class Counsel pursuant to Evidence Code section 1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendants in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than ninety (90) calendar days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy, all paper and electronic versions of Class Data received from Defendants unless, prior to the Court's discharge of the Administrator's obligation, Defendants makes a written request to Class Counsel for the return, rather than the destruction of Class Data.
- 12.14. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 12.15. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 12.16. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:  
Douglas Han  
Shunt Tatavos-Gharajeh  
Lizette Rodriguez  
751 N. Fair Oaks Ave. Suite 101  
Pasadena, California 91103  
(Tel) 818.230.7502  
(Fax) 818.230.7259  
dhan@JusticeLawCorp.com  
statavos@JusticeLawCorp.com  
lrodriguez@JusticeLawCorp.com

To Defendants:  
Jason W. Kearnaghan  
Ryan J. Krueger  
Emily A. Papania  
333 South Hope Street, 43rd Floor  
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rkrueger@sheppardmullin.com  
epania@sheppardmullin.com

- 12.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (*i.e.*, DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 12.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Dated: 12/27/2022

**PLAINTIFF JAMES CATO**

*James Cato Jr*

\_\_\_\_\_  
Plaintiff James Cato

Dated: 12/27/2022

**PLAINTIFF RICHARD THORNE**

*Richard Thorne*

\_\_\_\_\_  
Plaintiff Richard Thorne

Dated: \_\_\_\_\_

**HUNTINGTON INGALLS INCORPORATED**

\_\_\_\_\_  
Please Print Name of Authorized Signatory

Dated: \_\_\_\_\_

**HII FLEET SUPPORT GROUP, LLC**

\_\_\_\_\_  
Please Print Name of Authorized Signatory

Dated: \_\_\_\_\_

**PLAINTIFF JAMES CATO**

\_\_\_\_\_  
Plaintiff James Cato

Dated: \_\_\_\_\_

**PLAINTIFF RICHARD THORNE**

\_\_\_\_\_  
Plaintiff Richard Thorne

January 11, 2023  
Dated: \_\_\_\_\_

**HUNTINGTON INGALLS INCORPORATED**



\_\_\_\_\_  
Jeffrey M. Bauer  
Please Print Name of Authorized Signatory

January 11, 2023  
Dated: \_\_\_\_\_

**HII FLEET SUPPORT GROUP, LLC**



\_\_\_\_\_  
Jeffrey M. Bauer  
Please Print Name of Authorized Signatory

**APPROVED AS TO FORM**

**JUSTICE LAW CORPORATION**

Dated: December 27, 2022



Attorneys for Plaintiffs James Cato and Richard Thorne

**SHEPPARD, MULLIN, RICHTER &  
HAMPTON LLP**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Jason W. Kearnaghan  
Attorneys for Defendants Huntington Ingalls  
Incorporated and HII Fleet Support Group, LLC

**APPROVED AS TO FORM**

**JUSTICE LAW CORPORATION**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Attorneys for Plaintiffs James Cato and Richard Thorne

**SHEPPARD, MULLIN, RICHTER &  
HAMPTON LLP**

Dated: January 11, 2023

  
\_\_\_\_\_  
Jason W. Kearnaghan  
Attorneys for Defendants Huntington Ingalls Incorporated and HII Fleet Support Group, LLC

# **EXHIBIT A**

**COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING  
DATE FOR FINAL COURT APPROVAL  
(James Cato v. Huntington Ingalls Incorporated, Case No. 21STCV00441)**

*The Superior Court for the State of California authorized this Notice. Read it carefully! It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.*

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Huntington Ingalls Incorporated and HII Fleet Support Group, LLC (abbreviated name “Defendants” is used herein as a placeholder) for alleged wage and hour violations. The Action was filed by former employees of Defendants, James Cato and Richard Thorne (“Plaintiffs”), and seeks payment of: (1) wages and other relief for a class of current and former non-exempt employees of HII Fleet Support Group, LLC, employed in California at any time during the period from January 7, 2017 through December 31, 2022 (“Class,” “Class Members,” and “Class Period”); and (2) penalties under the Private Attorneys General Act (“PAGA”) for all current and former non-exempt employees of HII Fleet Support Group, LLC, employed in California at any time during the period from June 25, 2020 through December 31, 2022 (“Aggrieved Employees” and “PAGA Period”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendants to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendants to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Defendants’ records, and the Parties’ current assumptions, your Individual Class Payment is estimated to be \$ [REDACTED] (less withholding) and your Individual PAGA Payment is estimated to be \$ [REDACTED]. The actual amount you may receive likely will be different and will depend on several factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendants’ records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on Defendants’ records showing that you worked [REDACTED] workweeks during the Class Period and you worked [REDACTED] pay periods during the PAGA Period. If you believe you worked more workweeks and/or pay periods during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiffs and Plaintiffs’ attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendants.

If you worked for Defendants during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

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(1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendants.

(2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendants. Also, if you are an Aggrieved Employee, you will remain eligible for an Individual PAGA Payment. In other words, you cannot opt-out of the PAGA portion of the proposed Settlement.

Defendants will not retaliate against you for any actions you take with respect to the proposed Settlement.

### SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

<p><b>You Don't Have to Do Anything to Participate in the Settlement</b></p>	<p>If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendants that are covered by this Settlement (Released Claims).</p>
<p><b>You Can Opt-out of the Class Settlement but not the PAGA Settlement. The Opt-out Deadline is</b>  <span style="background-color: yellow; display: inline-block; width: 100px; height: 1em;"></span></p>	<p>If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.</p> <p>You cannot opt-out of the PAGA portion of the proposed Settlement. Defendants must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).</p>
<p><b>Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement. Written Objections Must be Submitted by</b>  <span style="background-color: yellow; display: inline-block; width: 100px; height: 1em;"></span></p>	<p>All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.</p>

<p><b>You Can Participate in the Final Approval Hearing</b></p>	<p>The Court’s Final Approval Hearing is scheduled to take place on [REDACTED] at [REDACTED]. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.</p>
<p><b>You Can Challenge the Calculation of Your Workweeks/Pay Periods. Written Challenges Must be Submitted by [REDACTED]</b></p>	<p>The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many pay periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Defendants’ records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [REDACTED]. See Section 4 of this Notice.</p>

**1. WHAT IS THE ACTION ABOUT?**

Plaintiffs are former employees of Defendants. The Action accuses Defendants of violating California labor laws by failing to pay overtime wages, minimum wages, wages due during employment and upon termination, and reimbursable expenses and failing to provide meal periods, rest breaks, and accurate itemized wage statements. Based on the same claims, Plaintiffs have also asserted a claim for civil penalties under the Private Attorneys General Act (Labor Code sections 2698, *et seq.*) (“PAGA”). Plaintiffs are represented by attorneys by Justice Law Corporation (“Class Counsel”) in this Action.

Defendants strongly deny violating any laws or failing to pay any wages and contend they complied with all applicable laws.

**2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?**

So far, the Court has made no determination whether Plaintiffs or Defendants are correct on the merits. In the meantime, Plaintiffs and Defendants hired an experienced, neutral mediator Jeffrey Krivis, Esq., to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and Defendants have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims.

Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe: (1) Defendants have agreed to pay a fair, reasonable, and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable, and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

**3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?**

1. Defendant Will Pay \$450,000 as the Gross Settlement Amount. Defendants have agreed to deposit the Gross Settlement Amount into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement Amount to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Administration Expenses Payment, and penalties to be paid to the LWDA. Assuming the Court grants Final Approval, Defendants will fund the Gross Settlement Amount no later than fifteen (15) days after the Effective Date.

a. "Effective Date" is defined as the date on which the Final Award becomes final. The Final Award "becomes final" only after the Court grants the Motion for Final Approval and upon service of the Notice of Entry of Order and/or Final Judgment, and upon the latter of: (i) if no appeal is filed, the expiration date of the time for the filing or noticing of any appeal from, or other challenge to, the Order Granting Final Approval and/or Final Judgment (this time period shall not be less than seventy (70) calendar days after the Court's Order is entered); (ii) the date of affirmance of an appeal of the Order Granting Final Approval and/or Final Judgment becomes final under the California Rules of Court; or (iii) the date of final dismissal of any appeal from the Order Granting Final Approval and/or Final Judgment or the final dismissal of any proceeding on review of any court of appeal decision relating to the Order Granting Final Approval and/or Final Judgment

2. Court Approved Deductions from Gross Settlement Amount. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:

- A. Up to \$157,500 (35% of the Gross Settlement Amount) to Class Counsel for attorneys' fees and up to \$20,000 to Class Counsel for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
- B. Up to \$5,000 as the Class Representative Service Payment to each Plaintiff for filing the Action, working with Class Counsel, and representing the Class. The Class Representative Service Payments will be the only monies Plaintiffs will receive other than their Individual Class Payments and any Individual PAGA Payments.
- C. Up to \$20,000 to the Administrator for services administering the Settlement.

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- D. Up to \$50,000 for PAGA Penalties, allocated seventy-five percent (75%) to the LWDA as the LWDA PAGA Payment and twenty-five percent (25%) to the Aggrieved Employees as their Individual PAGA Payments based on their PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Amount Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement Amount (“Net Settlement Amount”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiffs and Defendants are asking the Court to approve an allocation of one-third (1/3) of each Individual Class Payment to taxable wages (“Wage Portion”) and two-third (2/3) to interest and penalties (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendants will separately pay employer payroll taxes they owe on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiffs and Defendants have agreed to these allocations, neither side is giving you any advice on whether your payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller’s Unclaimed Property Fund in your name.
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [REDACTED], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the [REDACTED] Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (*i.e.*, Non-Participating Class Members) will not receive Individual Class Payments but will preserve their rights to personally pursue wage and hour claims against Defendants.

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You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendants based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Defendants have agreed that, in either case, the Settlement will be void, meaning Defendants will not pay any money and Class Members will not release any claims against Defendants.
8. Administrator. The Court has appointed a neutral company, Phoenix Class Action Administration Solutions (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and remail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.
9. Participating Class Members’ Release. Effective on the date when Defendants fully fund the entire Gross Settlement Amount and fund Employer Paid Taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Participating Class Members, and Class Counsel will release claims against all Released Parties. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement. The Participating Class Members will be bound by the following release:
  - (i) Any and all claims, wage and hour claims, rights, demands, liabilities and causes of action of any nature or description alleged/asserted in the Action, as amended, arising from and/or related to the facts and claims alleged/asserted in the Action, as amended during the Class Period, that could have been alleged/asserted in the Action based on the facts and claims alleged in the Action, as amended during the Class Period, and the facts and claims asserted in, arising from or related to, or could have been alleged in the PAGA letter dated June 25, 2021, which was sent to the LWDA on behalf of Richard Thorne and other alleged Aggrieved Employees and identified on the LWDA’s website as LWDA-CM-836198-21; (ii) any and all claims for unpaid wages, including, but not limited to, failure to pay minimum wages, straight time compensation, overtime compensation, double-time compensation, and interest; the calculation of the regular rate of pay; wages related to alleged unlawful time rounding; travel time pay; failure to pay wages at least twice each calendar month; failure to timely pay wages; missed/short/late/interrupted meal period, rest period, and/or recovery period wages/premiums; failure to provide meal periods; failure to authorize and permit rest periods and/or

recovery periods; the calculation of meal, rest, and/or recovery period premiums; reimbursement for all necessary business expenses, including work-related cell-phone expenses and car mileage for work-related travel; payment for all hours worked, including off-the-clock work; failure to provide/furnish accurate itemized wage statements; deductions; failure to keep/maintain accurate records; failure to timely pay final wages; unlawful deductions and/or withholdings from wages; unfair business practices; penalties, including, but not limited to, recordkeeping penalties, wage statement and payroll reporting penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees and costs; for civil and statutory penalties, including wage statement and payroll reporting penalties, record keeping penalties, minimum wage penalties, attorneys' fees and costs; and unfair business practices related to the Released Class Claims. The Released Class Claims also include but are not limited to all such claims arising under: California Labor Code sections 201, 201.3, 202, 203, 204, 206, 210, 216, 218, 218.5, 218.6, 221, 222, 225.5, 226, 226.3, 226.7, 246, 247.5, 248.5, 510, 512, 516, 558, 1174, 1174.5, 1175, 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198, 1199, 2698 et seq., 2699 et seq., 2800, and 2802; all claims arising under the California Private Attorneys General Act of 2004 ("PAGA") related to the Released Claims and Released Aggrieved Employee Claims; all claims relating to the Released Class Claims under the California Business and Professions Code section 17200, et seq.; the Release shall also include all claims relating to the Released Claims under the applicable Wage Orders of the California Industrial Welfare Commission (including, but not limited to, IWC Wage Order Nos. 4-2001, 5-2001, 10-2001 and 8 CCR section 11100) for failure to provide accurate itemized wage statements, failure to keep accurate records, for civil and statutory penalties, including wage statement penalties, and record keeping penalties. The Released Claims include those under the Fair Labor and Standards Act ("FLSA"), including those related to recordkeeping obligations, 29 U.S.C. section 211(c); 29 C.F.R. sections 516, 778.223, 778.315, et seq.; and all state and federal law equivalents arising from or related to the facts and claims alleged in the Action and/or LWDA letter or that could have been alleged in the Action and/or LWDA letter; California Civil Code sections 3287, 3288, 3289; California Code of Civil Procedure section 1021.5; and the California common law of contract. This release excludes the release of claims not permitted by law, including but not limited to claims brought for workers' compensation benefits, and alleged violations occurring outside the Class Period.

10. Aggrieved Employees' PAGA Release. Effective on the date when Defendants fully fund the entire Gross Settlement Amount and fund Employer Paid Taxes owed on the Wage Portion of the Individual Class Payments, all Aggrieved Employees will be barred from asserting PAGA claims against Defendants, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendants or its related entities based on the PAGA Period facts alleged in the Action and resolved by this

Settlement. The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

All claims, rights, demands, liabilities, and causes of action for PAGA civil penalties asserted in the Action (as amended) and/or arising from, or reasonably related to the facts and claims alleged in the Complaint, the First Amended Complaint, the Second Amended Complaint, and/or June 25, 2021 LWDA exhaustion letter identified on the LWDA's website as LWDA-CM-836198-21. Such claims, rights, demands, liabilities, and causes of action include those arising out of the following: California Minimum Wage Order (MW-2014), Labor Code sections 201, 202, 203, 204, 218.5, 221, 226, 226.3, 226.7, 510, 1194, 1197, 1198, 2698 *et seq.* Further, such claims, rights, demands, liabilities, and causes of action include those for PAGA civil penalties for unpaid wages, including, but not limited to, failure to pay minimum wages, straight time compensation, overtime compensation, double-time compensation, and interest; the calculation of the regular rate of pay; wages related to alleged unlawful time rounding; travel time pay; failure to pay wages at least twice each calendar month; failure to timely pay wages; missed/short/late/interrupted meal period, rest period, and/or recovery period wages/premiums; failure to provide meal periods; failure to authorize and permit rest periods and/or recovery periods; the calculation of meal, rest, and/or recovery period premiums; reimbursement for all necessary business expenses, including work-related cell-phone expenses and car mileage for work-related travel; payment for all hours worked, including off-the-clock work; failure to provide/furnish accurate itemized wage statements; deductions; failure to keep/maintain accurate records; failure to timely pay final wages; and unlawful deductions and/or withholdings from wages; unfair business practices.

#### 4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing the amount of the Aggrieved Employees' twenty-five percent (25%) share of PAGA Penalties \$12,500 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendants' records, are stated in the first page of this Notice. You have until [REDACTED] to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge

by signing and sending a letter to the Administrator via mail, email, or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendants' calculation of Workweeks and/or Pay Periods based on Defendants' records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defense Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

## **5. HOW WILL I GET PAID?**

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement.

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

## **6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?**

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action (*James Cato v. Huntington Ingalls Incorporated*, Case No. 21STCV00441), and include your identifying information (full name, address, telephone number, approximate dates of employment, and Social Security Number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. The Administrator must be sent your request to be excluded by [REDACTED], or it will be invalid. Section 9 of the Notice has the Administrator's contact information.

## **7. HOW DO I OBJECT TO THE SETTLEMENT?**

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiffs and Defendants are asking the Court to approve. At least sixteen (16) court days before the [REDACTED] Final Approval Hearing, Plaintiffs and/or Class Counsel will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Class Representative Service Payments stating (i) amount Class Counsel is requesting for attorneys' fees and litigation

expenses; and (ii) amount Plaintiffs are requesting as the Class Representative Service Payments. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's website [REDACTED] or the Court's website <http://www.lacourt.org/casesummary/ui/index.aspx>.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Class Representative Service Payments may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiffs are too high or too low. The deadline for sending written objections to the Administrator is [REDACTED]. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action (*James Cato v. Huntington Ingalls Incorporated*, Case No. 21STCV00441) and include your name, current address, telephone number, and approximate dates of employment for Defendants and sign the objection. Section 9 of this Notice has the Administrator's contact information.

A Participating Class Member can also object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

## **8. CAN I ATTEND THE FINAL APPROVAL HEARING?**

You can, but don't have to, attend the Final Approval Hearing on [REDACTED] at [REDACTED] in Department 14 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, California 90012. At the Final Approval Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement Amount will be paid to Class Counsel, Plaintiffs, and Administrator. The Court will invite comments from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website [REDACTED] beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

## **9. HOW CAN I GET MORE INFORMATION?**

The Agreement sets forth everything Plaintiffs and Defendants have promised to do under the proposed Settlement. The easiest way to read the Agreement, Judgment or any other Settlement documents is to go to the Administrator's website at [REDACTED]. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below or consult the Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. 21STCV00441. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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**DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION  
ABOUT THE SETTLEMENT.**

Class Counsel:

Name of Attorney: Douglas Han, Shunt, Tatavos-Gharajeh, and Lizette Rodriguez

Email Address: dhan@JusticeLawCorp.com

statavos@JusticeLawCorp.com

lrodriguez@JusticeLawCorp.com

Name of Firm: Justice Law Corporation

Mailing Address: 751 N. Fair Oaks Ave. Suite 101, Pasadena, California 91103

Telephone: (818) 230-7502

Administrator:

Name of Company:

Email Address:

Mailing Address:

Telephone:

Fax Number:

**10. WHAT IF I LOSE MY SETTLEMENT CHECK?**

If you lose or misplace your settlement check before cashing it, the Administrator will replace it if you request a replacement before the void date on the face of the original check. If your check is already void, you should consult the Unclaimed Property Fund ([https://sco.ca.gov/upd\\_msg.html](https://sco.ca.gov/upd_msg.html)) for instructions on how to retrieve the funds.

**11. WHAT IF I CHANGE MY ADDRESS?**

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.